



UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:

Cloud

Serial No. 08/983,332

Filed: March 05, 1998

For: CIRCUIT APPARATUS AND
CONFIGURATION FOR
REFRIGERATOR SYSTEMS

)
)
)
)
) Examiner: M. Shulman
) Group Art Unit: 3744
)
)
)

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO
RECEIVE OFFICE ACTION**

Honorable Commissioner for Patents and Trademarks
ATTN: GROUP 3744 DIRECTOR'S OFFICE
Washington, D.C. 20231

Dear Sir:


This petition is filed under 37 CFR 1.181 (a), (f) and MPEP 711.03 (c) requesting that the abandonment should be withdrawn due to the nonreceipt of the Notice of Allowance by both the Applicant and Applicant's attorneys. Applicant contends that application is not abandoned.

While speaking with Examiner Shulman, it was mentioned that the Notice of Allowance was mailed to an address, 120 E. Collins Ct., Louisville, KY 40214, which is the OLD address of the applicant, please see, attached Notice of Abandonment, listing incorrect address to which original Notice of Allowance was mailed. Also, no Notice of Allowance was mailed to the Attorney of Record, Mr. Daniel Stelter at Middleton & Reutlinger.

As a consequence, neither Applicant nor his Attorneys of record received the Notice of Allowance mailed January 24, 2000. The only information Applicant or his Attorneys received was the Notice of Abandonment mailed June 9, 2000, which was mailed to the undersigned Attorney.

Therefore, it is the goal of this petition to request that a new Notice of Allowance be issued to Middleton & Reutlinger, 2500 Brown & Williamson Tower, Louisville, KY 40202, who are the Attorneys of record. The Issue Fee and any Formal Drawings necessary will then be handled promptly.

As authority for this Petition, we cite *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971) where the court decided that a new Notice of Allowance should be mailed from the Patent Office due to the Applicant's attorneys not receiving the original Notice of Allowance.

As you can see on the enclosed Notice of Abandonment, the first Notice of Abandonment was mailed to Applicant's OLD address 1/24/00 and then to the Applicant's attorneys 6/9/00. The Notice of Allowance should have been mailed to the Attorney of record since the Notice of Abandonment was eventually mailed to the Attorney of record.

We are enclosing the following information to establish that there was sufficient information evidencing that Middleton & Reutlinger should have been the recipient for any and all correspondence from the Patent Office. We are also enclosing our docket record showing that if a Notice of Allowance would have been received, it would have been docketed in an appropriate fashion, to ensure timely payment of the issue fee and to attend to any other requirements of the Notice of Allowance.

Therefore, the following information is enclosed.

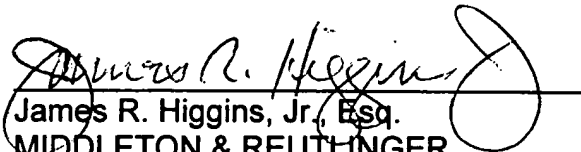
1. Transmittal form;
2. Petition Routing Slip;
3. Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action;
4. Revocation of Power of Attorney, Appointment of New Attorney;
5. Notice of Abandonment, mailed first to Applicant's old address on 1/24/00 and then to Daniel Stelter at Middleton & Reutlinger on 6/9/00;
6. Docket Record;
7. Return postcard evidencing receipt of above items

In summary, we are requesting that the abandonment of the above application be withdrawn due to the Applicant and Applicant's attorneys not receiving the Notice of Allowance, and therefore, the issue fee was paid nor were any formal drawings mailed in.

Please proceed with this Petition accordingly. Pursuant to 37 CFR 1.181(a), no fee is required.

Respectfully submitted,

Date: June 19, 2000


James R. Higgins, Jr., Esq.
MIDDLETON & REUTLINGER
2500 Brown & Williamson Tower
Louisville, Kentucky 40202
(502) 584-1135
Reg. No. 29,264



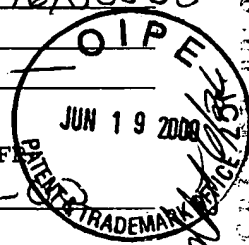
CLIENT: (Ice one) Tube Ice INVENTOR: Cloud
TITLE: Circuit Apparatus and Configuration for Refrigerator Systems ATTY.
S/N: 08/983,332 OUR REF. # Z/KS46/00000
PROV. UTILITY X DESIGN USPN:
CHECK NO. IN THE AMOUNT OF \$

RECEIVED SUBMISSION OF:

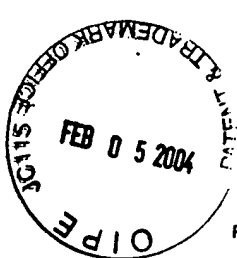
CERTIFICATE OF MAILING PURSUANT TO 37 CFR

1.8 1.10 X DATED: 6-19-00

1. Transmittal Form;
2. Petition Routing Slip;
3. Petition to withdraw Holding of Abandonment Based on Failure to Receive Office action;
4. Revocation of Power of Attorney Appointment of new attorney;
5. Notice of Abandonment; 6. Docket Record
7. Return Postcard



RECEIVED JUN 26 2000



Please type a plus sign (+) inside this box → ☐

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PTO/SB/69 (12-97)
Approved for use through 9/30/00. OMB 0651-0031
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

PETITION ROUTING SLIP

(Find the petition from the list and check the box in the heading above the petition)

Complete if Known

Application Number	08/983,332
Filing Date	03/05/98
First Named Inventor	Cloud
Group Art Unit	3744
Examiner Name	M. Shulman
Attorney Docket Number	ZK546/00000

☐ PETITIONS DECIDED BY PETITIONS OFFICE

- | | |
|--|---|
| 301 Relating to Public Use Proceedings (37 CFR 1.292) | 503 To waive/suspend rules (37 CFR 1.183) |
| 302 To make application special - prospective manufacture (37 CFR 1.102, MPEP 708.02) | 504 To invoke supervisory authority - re patent examining operations (37 CFR 1.181) |
| 303 To make special - Infringement (37 CFR 1.102, MPEP 108.02) | 505 To withdraw from issue after payment of issue fee (37 CFR 1.313(b)(1-4)) |
| 304 Relating to the Filing/Issuance of Divisional Reissue (37 CFR 1.177) | 506 To withdraw from issue after payment of issue fee (37 CFR 1.313(b)) or abandon application in favor of continuing application |
| 305 To waive or suspend rules (37 CFR 1.183) | 507 To enter priority papers after Issue Fee payment (37 CFR 1.55(a)) |
| 306 To expunge a paper from patent application or patent file (37 CFR 1.59) | 508 To defer issuance of patent (37 CFR 1.314) |
| 307 Withdrawal of Attorney (37 CFR 1.36) | 515 To invoke supervisory authority - re Office of Admin. (37 CFR 1.181) |
| 308 For access to application except re proceedings before Board (37 CFR 1.14, MPEP 103.104) | 516 To waive/suspend rules re patent matters in Office of Admin. (37 CFR 1.183) |
| 309 Relating to Small Entity (37 CFR 1.28) | 519 To decide matters before Deputy A/C for Patents under 37 CFR 1.182 |
| 310 Relating to reexamination (37 CFR 1.181-1.183) | 521 To review refusal to accept & record maintenance fee - application filed on or after 6/27/82 (37 CFR 1.377) |
| 311 For correction of inventorship for applications - no filing date (37 CFR 1.48) | 523 To issue patent in the name of the Assignee (37 CFR 1.334(c)) |
| 312 For correction of inventorship re PCT applications (37 CFR 1.47) | 525 To withdraw a holding of abandonment (37 CFR 1.181) |
| 313 For filing application without one or more inventors (37 CFR 1.47) | 526 To order a Commissioner-initiated Reexamination proceeding (37 CFR 1.520) |
| 314 For filing PCT application without one or more inventors (37 CFR 1.47) | 527 To convert Provisional Application |
| 315 For extension of time without fee in cases in Application Division (37 CFR 1.136(b)) | 528 To reinstate abandoned Provisional Application |
| 399 For matters before A/C for Patents - not specified | 530 PCT petition-unavoidable |
| 408 Relating to a filing date under 35 USC 111 & 37 CFR 1.53 | 531 PCT petition-unintentional |
| 411 Filing date for application filed by Express Mail (37 CFR 1.10) | 532 To accept unavoidably delayed payment of maintenance fee (37 CFR 1.378 (b)) |
| 412 Filing date for lost application | 533 To accept unintentionally delayed payment of maintenance fee (37 CFR 1.378 (c)) |
| 501 To revive an abandoned application - unavoidable delay (37 CFR 1.137(a)) | 534 Petitions related to reexamination proceedings |
| 502 To revive an abandoned application - unintentional abandonment (37 CFR 1.137(b)) | 599 For matters before the Deputy A/C for Patents - not specified |

☒ PETITIONS DECIDED BY THE GROUP DIRECTOR

- | | |
|--|--|
| 601 To make application special on ground of age or health (37 CFR 1.102, MPEP 708.02) | 618 For concurrent Ex parte and Inter parte proceedings (37 CFR 1.212) |
| 602 To make special - continuity of earlier application (37 CFR 1.102, MPEP 708.02) | 619 For return of original oath of patent application (MPEP 604.04(a)) |
| 603 To make special - environment quality program (37 CFR 1.102, MPEP 708.02) | 620 For extension of time (37 CFR 1.136(b)) |
| 604 To make special - accelerated examination (37 CFR 1.102, MPEP 708.02) | 621 For interview after Notice of Allowance mailed (MPEP 713.10) |
| 605 To make special - Energy Program (37 CFR 1.102, MPEP 708.02) | 622 Concerning appeal application before transfer of jurisdiction to Board (MPEP 1206) |
| 606 To make special - Recombinant DNA (37 CFR 1.102, MPEP 708.02) | 623 For second or subsequent suspension of action (37 CFR 1.103, MPEP 709) |
| 607 To make special for reasons not provided for in codes 601-606 (37 CFR 1.102, MPEP 708.02) | 625 To reinstate Appeals dismissed in Group |
| 608 To reopen prosecution after Board decision (37 CFR 1.188) | 626 From denial of reexamination request (37 CFR 515(c)) |
| 609 For review of final restriction requirement (37 CFR 1.144) | 627 To enter an amendment after payment of Issue Fee (37 CFR 1.312(b)) |
| 610 Invoking Authority of Commissioner under 37 CFR 1.181 not specified in codes | 628 From refusal to issue a Certificate of Correction (37 CFR 1.181, MPEP 1480-1485) |
| 611 Relating to the prematurity of final rejection (37 CFR 1.181, MPEP 706.07(c)) | 629 For withdrawal of attorney from application pending in group (37 CFR 1.36) |
| 612 Relating to the refusal to enter an amendment (37 CFR 1.181 & 1.127, MPEP 714.19) | 630 For extension of time in a reexamination (37 CFR 1.550(c)) |
| 613 To withdraw a holding of abandonment (37 CFR 1.137, MPEP 711.03) | 631 To merge multiple reexamination proceedings (37 CFR 1.565(c), MPEP 2283) |
| 614 Relating to a requirement to cancel new matter from application (37 CFR 1.181, MPEP 608.04(c)) | 632 To effect a second conversion of inventorship (37 CFR 1.48, MPEP 201.03) |
| 615 Relating to formal sufficiency/propriety of affidavits (37 CFR 1.131, 1.132, 1.608, MPEP 715.07) | 633 Superconductivity |
| 616 To institute an interference (37 CFR 1.606) | 634 To correct inventorship in a patent not in interference (37 CFR 1.324, MPEP 1481) |
| 617 Relating to refusal to enter an amendment under 37 CFR 1.312 | 635 To change inventorship in an application (37 CFR 1.48) |
| | 636 To change inventorship in a patent (37 CFR 1.48) |
| | 637 To withdraw from issue before payment of an issue fee (37 CFR 1.313(a)) |
| | 699 For matters before Group Director - not specified |

☐ PETITIONS DECIDED BY BOARD OF PATENT APPEALS AND INTERFERENCES

- | | |
|---|--|
| 701 To exercise supervisory authority re action by examiner/examiner-in-chief (37 CFR 1.644) | 711 To assign particular members to hearing or to request augmented panel (35 USC 7) |
| 702 To accept belatedly filed copies of interference settlement agreements (35 USC 135(c), 37 CFR 1.666(c)) | 712 To decide miscellaneous questions in proceedings under 37 CFR 1.601-1.688 |
| 703 For withdrawal of attorney in proceeding under 37 CFR 1.201 - 1.288 (37 CFR 1.36) | 713 To accept priority papers in applications in interference (37 CFR 1.644) |
| 704 For access to a settlement agreement under 35 USC 135(c) (37 CFR 1.666(b)) | 714 To reinstate an Appeal |
| 705 For access to an application in proceedings before the Board (37 CFR 1.14(e)) | 799 For matters before Chairman of Board - not specified |
| 706 From a refusal to issue a Certificate of Correction (37 CFR 1.322, 1.323) | 801 To make an application before the Board special (37 CFR 1.102) |
| 707 To correct errors in inventorship (37 CFR 1.324) | 802 To reinstate an Appeal |
| 708 For extension of time to file amendment under 37 CFR 1.196(b) (37 CFR 1.136) | 803 To extend time/suspend proceedings (37 CFR 1.196, 1.197, 1.304) |
| 709 To make an application before the Board special (37 CFR 1.102) | 804 For extension of time to file supplemental Reply Brief (37 CFR 1.136) |
| 710 For extension of time to file supplemental Reply Brief (37 CFR 1.136) | 805 To accept late request for an Oral Hearing (37 CFR 1.136) |
| | 899 For matters before the Clerk of the Board - not specified |

☐ PETITIONS DECIDED BY SPECIAL LAWS (SECURITY AND GOVERNMENT INTEREST MATTERS)

- | | |
|-----------------------|--|
| 901 Under 42 USC 2182 | 904 Under 35 USC 267 |
| 902 Under 42 USC 2457 | 905 To consider/review security or Government interest matters - not specified |
| 903 Under 35 USC 184 | |

☐ PETITIONS DECIDED BY THE SOLICITOR

- | | |
|---|---|
| 951 Petitions for extension of time in court matters 35 USC 142, 145, 146 | 953 Requests filed under the Freedom of Information Act |
| 952 Petitions relating to ex parte questions in cases before the Court of Appeals for the Federal Circuit | 959 Not specified |

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.